



6351-01-P

## COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038-AC96

Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correcting amendments.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is correcting a final rule published in the Federal Register of September 11, 2012 (77 FR 55904). That rule, 17 CFR 23.505, took effect on November 13, 2012. Subsequently, the CFTC published final rules in the Federal Register of December 13, 2012 (77 FR 74284), that re-codified the Commission regulation at 17 CFR 39.6 as a new Commission regulation at 17 CFR 50.50. This correction amends cross-references in 17 CFR 23.505 to conform them with the final rules published on December 13, 2012.

DATES: Effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Frank Fisanich, Chief Counsel, 202-418-5949, [ffisanich@cftc.gov](mailto:ffisanich@cftc.gov), or Jason A. Shafer, Attorney-Advisor, 202-418-5097, [jshafer@cftc.gov](mailto:jshafer@cftc.gov), Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 11, 2012 (77 FR 55904), the CFTC published final rules setting forth requirements for swap confirmation, portfolio reconciliation, portfolio compression, and swap trading relationship documentation for Swap Dealers and Major Swap Participants. Those rules, in 17 CFR Part 23, include cross-references to the Commission regulation at 17 CFR 39.6. After the effective date of the Part 23 rules (November 13, 2012), the CFTC published final rules in the Federal Register of December 13, 2012 (77 FR 74284) that recodified the Commission regulation at 17 CFR 39.6 as a new Commission regulation at 17 CFR 50.50. Those rules took effect on February 11, 2013. Thus, the Commission is making correcting amendments to the affected section of 17 CFR Part 23 to replace the cross-references to 17 CFR 39.6 with cross-references to 17 CFR 50.50.

#### List of Subjects in 17 CFR Part 23

Antitrust, Commodity futures, Conduct standards, Conflict of interests, Major swap participants, Reporting and recordkeeping, Swap dealers, Swaps.

Accordingly, 17 CFR Part 23 is corrected by making the following correcting amendments:

#### PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

1. The authority citation for Part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b-1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

2. In §23.505, revise paragraphs (a) introductory text, (a)(2), and (a)(5) to read as follows:

§23.505 End user exception documentation.

(a) *For swaps excepted from a mandatory clearing requirement.* Each swap dealer and major swap participant shall obtain documentation sufficient to provide a reasonable basis on which to believe that its counterparty meets the statutory conditions required for an exception from a mandatory clearing requirement, as defined in section 2h(7) of the Act and § 50.50 of this chapter. Such documentation shall include:

\* \* \* \* \*

(2) That the counterparty has elected not to clear a particular swap under section 2h(7) of the Act and § 50.50 of this chapter;

\* \* \* \* \*

(5) That the counterparty generally meets its financial obligations associated with non-cleared swaps. *Provided*, that a swap dealer or major swap participant need not obtain documentation of paragraphs (a)(3), (4), or (5) of this section if it obtains documentation that its counterparty has reported the information listed in § 50.50(b)(1)(iii) in accordance with § 50.50(b)(2) of this chapter.

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Issued in Washington, DC, on April 4, 2013, by the Commission.

Christopher J. Kirkpatrick,  
Deputy Secretary of the Commission.

[FR Doc. 2013-08197 Filed 04/08/2013 at 8:45 am; Publication Date: 04/09/2013]